

## **REMARKS**

### 1. Present Status of Patent Application

This is a full and timely response to the outstanding final Office Action mailed May 2, 2007. Reconsideration and allowance of the application and presently pending claims are respectfully requested.

### 2. Response to Rejections of Claims under 35 U.S.C. § 102(b)

Claims 1-3, 5-7, 9, 11, 13-15, 17, 19, and 21-23 stand rejected under 35 U.S.C. § 102(b) as allegedly being unpatentable by *BTAS User Documentation* "based upon a public use or sale of the invention, as is referenced in the Information Disclosure Statement filed by the applicant on January 28, 2005 and disclosed in the BTAS User Documentation." Page 2. Applicants respectfully submit that a *prima facie* case has not been established for the 102(b) rejection. For example, it is not clear whether the *BTAS User Documentation* is alleged to be evidence of a public use of the invention or a sale of the invention. The Office Action does not state or identify exactly what was in public use or on sale, whether it was in use or on sale in this country more than one year before the effective filing date, and whether the pending claims read on or are obvious over what has been shown to be in public use or on sale. Also, note, in general, that a claimed process is not sold in the same sense as a claimed product, device, or apparatus, which is a tangible item. "'Know-how' describing what the process consists of and how the process should be carried out may be sold in the sense that the buyer acquires knowledge of the process and obtains the freedom to carry it out pursuant to the terms of the transaction. However, such a transaction is not a 'sale' of the invention within the meaning of § 102(b) because the process has not been carried out or performed as a result of the transaction." *In re Kollar*, 286 F.3d 1326, 62 USPQ2d 1425, 1429 (Fed. Cir. 2002). Therefore, applicability of the 102(b) rejection with regard to Applicant's claimed methods and processes is also unclear.

Applicants respectfully submit that *BTAS User Documentation* was referenced in an Information Disclosure Statement filed on January 28, 2005. Applicants provided a statement indicating that *BTAS User Documentation* was only available to BellSouth

employees and contractors and does not have the indicia of "public accessibility" that is generally relied upon as criteria by which prior art references have been judged. Until the interested public has access to the document, it should not be considered to be available as a printed publication within the meaning of 35 USC § 102(a) or (b). Therefore, *BTAS User Documentation* is not evidence of a printed publication or of public use more than one year prior to the filing date of the present application. Further, Applicants respectfully assert that *BTAS User Documentation* should not and does not trigger an on-sale bar. For at least these reasons, Applicants submit that *BTAS User Documentation* does not comprise an on-sale or public event. With regard to the Office Action, it has failed to assert or establish a *prima facie* case under § 102(b). Therefore, the rejection should be withdrawn.

3. Response to Rejections of Claims under 35 U.S.C. § 102(e)

Claims 1-3, 6-7, 9, 11, 13-15, 17, 19, and 21 stand rejected under 35 U.S.C. § 102(b) as allegedly being unpatentable by *Wickham* (U.S. Patent No. 6,307,546 B1).

a. Claim 1

As provided in independent claim 1, Applicants claim:

A telecommunications assignment system, comprising:  
assignment logic operable to assign a plurality of telecommunications equipment and ports to a plurality of network elements;  
collection logic operable to receive assignments from the assignment logic and store the assignments in a database; and  
***graphical user interface logic operable to retrieve assignments from the database, and to display the assignments to a user in a graphical format using a web interface which includes displaying the telecommunications equipment in a graphical format substantially similar to a physical construction of the telecommunications equipment.***

(Emphasis added).

Claim 1 is patentable over *Wickham* for at least the reason that *Wickham* fails to teach or suggest "graphical user interface logic operable to retrieve assignments from the database, and to display the assignments to a user in a graphical format using a

web interface which includes displaying the telecommunications equipment in a graphical format substantially similar to a physical construction of the telecommunications equipment,” as emphasized above and recited in claim 1.

In contrast, *Wickham* describes a “PC-based craft interface product 63 (FIG. 4) programmed with the Snialltalk object-oriented language, which can be plugged into a terminal 12.” Col. 6, lines 16-20 (Emphasis added). Each “Litespan<sup>TM</sup> terminal 12 has common control (CC) banks 28 and access multiplexers including fiber banks 30 for various kinds of fiber connections and channel banks 32 for various kinds of subscriber drops such as POTS, ISDN, HFC.” Col. 5, lines 48-52. Accordingly, *Wickham* does not disclose that a computer can retrieve assignments using a web interface. As such, *Wickham* fails to teach or suggest at least “graphical user interface logic operable to retrieve assignments from the database, and to display the assignments to a user in a graphical format using a web interface which includes displaying the telecommunications equipment in a graphical format substantially similar to a physical construction of the telecommunications equipment,” as recited in claim 1.

Therefore, claim 1 is not anticipated by *Wickham*, and the rejection should be withdrawn for at least this reason.

b. Claims 2-3 and 6-7

For at least the reasons given above, claim 1 is allowable over the cited art of record. Since claims 2-3 and 6-7 depend from claim 1 and recite additional features, claims 2-3 and 6-7 are allowable as a matter of law over the cited art.

c. Claim 9

As provided in independent claim 9, Applicants claim:

A method of assigning telecommunications equipment, comprising:  
***providing a graphical user interface to a user, the graphical user interface comprising a plurality of telecommunications equipment and network elements which are displayed to the user in a format substantially similar to the physical construction of the telecommunications equipment, the graphical user interface being further operable to allow the user to make telecommunication equipment assignments using web communications;***

receiving telecommunications equipment assignments from the user via the graphical user interface; and  
storing the telecommunications equipment assignments received from the user in a database for later retrieval.

(Emphasis added).

Claim 9 is patentable over *Wickham* for at least the reason that *Wickham* fails to teach or suggest “providing a graphical user interface to a user, the graphical user interface comprising a plurality of telecommunications equipment and network elements which are displayed to the user in a format substantially similar to the physical construction of the telecommunications equipment, the graphical user interface being further operable to allow the user to make telecommunication equipment assignments using web communications,” as emphasized above and recited in claim 9.

In contrast, *Wickham* describes a “PC-based craft interface product 63 (FIG. 4) programmed with the Snialltalk object-oriented language, which can be plugged into a terminal 12.” Col. 6, lines 16-20 (Emphasis added). Each “Litespan<sup>TM</sup> terminal 12 has common control (CC) banks 28 and access multiplexers including fiber banks 30 for various kinds of fiber connections and channel banks 32 for various kinds of subscriber drops such as POTS, ISDN, HFC.” Col. 5, lines 48-52. Accordingly, *Wickham* does not disclose that a computer can allow a user to make assignments using web communications. As such, *Wickham* fails to teach or suggest at least “providing a graphical user interface to a user, the graphical user interface comprising a plurality of telecommunications equipment and network elements which are displayed to the user in a format substantially similar to the physical construction of the telecommunications equipment, the graphical user interface being further operable to allow the user to make telecommunication equipment assignments using web communications,” as recited in claim 9.

Therefore, claim 9 is not anticipated by *Wickham*, and the rejection should be withdrawn for at least this reason.

d. Claims 11 and 13-15

For at least the reasons given above, claim 9 is allowable over the cited art of record. Since claims 11 and 13-15 depend from claim 9 and recite additional features, claims 11 and 13-15 are allowable as a matter of law over the cited art.

e. Claim 17

As provided in independent claim 17, Applicants claim:

A computer readable medium having a program for assigning telecommunications equipment, the program operable to perform:

***providing a graphical user interface to a user, the graphical user interface comprising a plurality of telecommunications equipment and network elements which are displayed to the user in a format substantially similar to the physical construction of the telecommunications equipment, the graphical user interface being further operable to allow the user to make telecommunication equipment assignments using web communications;***

receiving telecommunications equipment assignments from the user via the graphical user interface; and

storing the telecommunications equipment assignments received from the user in a database for later retrieval.

(Emphasis added).

Claim 17 is patentable over *Wickham* for at least the reason that *Wickham* fails to teach or suggest “providing a graphical user interface to a user, the graphical user interface comprising a plurality of telecommunications equipment and network elements which are displayed to the user in a format substantially similar to the physical construction of the telecommunications equipment, the graphical user interface being further operable to allow the user to make telecommunication equipment assignments using web communications,” as emphasized above and recited in claim 17.

In contrast, *Wickham* describes a “PC-based craft interface product 63 (FIG. 4) programmed with the Snialltalk object-oriented language, which can be plugged into a terminal 12.” Col. 6, lines 16-20 (Emphasis added). Each “Litespan<sup>TM</sup> terminal 12 has common control (CC) banks 28 and access multiplexers including fiber banks 30 for various kinds of fiber connections and channel banks 32 for various kinds of subscriber drops such as POTS, ISDN, HFC.” Col. 5, lines 48-52. Accordingly, *Wickham* does not

disclose that a computer can allow a user to make assignments using web communications. As such, *Wickham* fails to teach or suggest at least “providing a graphical user interface to a user, the graphical user interface comprising a plurality of telecommunications equipment and network elements which are displayed to the user in a format substantially similar to the physical construction of the telecommunications equipment, the graphical user interface being further operable to allow the user to make telecommunication equipment assignments using web communications,” as recited in claim 17.

Therefore, claim 17 is not anticipated by *Wickham*, and the rejection should be withdrawn for at least this reason.

f. Claims 19 and 21

For at least the reasons given above, claim 17 is allowable over the cited art of record. Since claims 19 and 21 depend from claim 17 and recite additional features, claims 19 and 21 are allowable as a matter of law over the cited art.

4. Response to Rejections of Claims under 35 U.S.C. § 103(a)

Claims 4, 10, 12, 18, and 20 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable by *Wickham*. Claims 8, 16, and 24 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable by *Wickham* in view of *Edwards* (U.S. Patent No. 5,590,360). Claims 22 and 23 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable by *Wickham* in view of *Kidder* (U.S. Patent No. 6,445,774 B1). Claims 4, 10, 12, 18, and 20 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable by *BTAS User Documentation*. Claims 8, 16, and 24 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable by *BTAS User Documentation* in view of *Edwards* (U.S. Patent No. 5,590,360).

For at least the reasons given above, independent claims 1, 9, and 17 are allowable over the cited art of record. Since claims 4, 8, 10, 12, 16, 18, 20, and 22-24 depend from claims 1, 9, or 17 and recite additional features, claims 4, 8, 10, 12, 16, 18, 20, and 22-24 are allowable as a matter of law over the cited art. Moreover, the cited art

of *Edwards* and *Kidder* fails to cure the deficiencies of the *Wickham* reference (and *BTAS User Documentation* does not qualify as art under 35 U.S.C. § 102(b)).

With respect to claims 4, 12, 18, and 20, the Office Action states that the “examiner takes official notice that web-based and web-accessible applications are notoriously well known in the art.” Page 13. With respect to claims 10 and 18, the Office Action states that the “examiner takes official notice that storing related database elements in the same database is notoriously well known in the art.” Page 13.

Applicants respectfully traverse each of the findings of official notice. In particular, a specific or particular reason why the finding of official notice is improper is that claim 20 describes a “web browser as the remote client, the web browser being operable to view any of a plurality of web formats,” where a plurality of telecommunications equipment and network elements are displayed to a user in a format substantially similar to a physical construction of telecommunications equipment. Likewise, claim 18 describes “wherein the format for the telecommunications equipment and network elements display are stored in the database with the telecommunications equipment assignments.” It has not been established that these features are capable of instant and unquestionable demonstration as being well known within the context of the claimed subject matter.

Per MPEP 2144.03(A), “It would not be appropriate for the examiner to take official notice of facts without citing a prior art reference where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known.” Also, per MPEP 2144.03(B), “If such notice is taken, the basis for such reasoning must be set forth explicitly. The Examiner must provide specific factual findings predicated on sound technical and scientific reasoning to support his or her conclusion of common knowledge.”

As specific factual findings predicated on sound technical and scientific reasoning in support of the conclusion of common knowledge are not provided in the Office Action, the Official Notice and the rejections based upon this finding should be withdrawn. Further, under 37 CFR § 1.104(d)(2), if the rejections are based on facts within the personal knowledge of the examiner, “the data should be stated as specifically as possible, and the facts must be supported, when called for by the

applicant, by an affidavit from the examiner. Such an affidavit is subject to contradiction or explanation by the affidavits of the applicant and other persons." Therefore, if this rejection is maintained, Applicants respectfully request that document(s) be provided as support.

### **CONCLUSION**

Any other statements in the Office Action that are not explicitly addressed herein are not intended to be admitted. In addition, any and all findings of inherency are traversed as not having been shown to be necessarily present. Furthermore, any and all findings of well-known art and official notice, or statements interpreted similarly, should not be considered well known for at least the specific and particular reason that the Office Action does not include specific factual findings predicated on sound technical and scientific reasoning to support such conclusions.

In light of the foregoing amendments and for at least the reasons set forth above, Applicants respectfully submit that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that the pending claims are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. In addition, Applicants reserve the right to address any comments made in the Office Action that were not specifically addressed herein. Thus, such comments should not be deemed admitted by the Applicants. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned agent at (770) 933-9500.

Respectfully submitted,

  
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